

122 FERC ¶ 61,092  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Dominion Resources Services, Inc.

v.

Docket No. EL08-36-000

PJM Interconnection, L.L.C.

ORDER ESTABLISHING SETTLEMENT JUDGE  
PROCEDURES

(Issued February 4, 2008)

1. On January 28, 2008, Dominion Resources Services, Inc., on behalf of its affiliates Dominion Energy Marketing, Inc. (DEMI) and Fairless Energy, LLC (Fairless Energy) (collectively, Dominion), filed a complaint pursuant to section 206 of the Federal Power Act (FPA)<sup>1</sup> against PJM Interconnection, L.L.C. (PJM). Dominion alleges that PJM, without justification or authority, failed to timely process Dominion's interconnection request for enhanced capacity at a Fairless facility in accordance with PJM's open access transmission tariff.<sup>2</sup> Dominion asserts that without this certification, it will not be able to

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<sup>1</sup> 16 U.S.C. § 824e (2000).

<sup>2</sup> The Fairless generating facility consists of two gas-fired, combined cycle generating units located in PJM's Eastern Mid-Atlantic Load Deliverability Area. Dominion has made a \$30 million capital investment at the Fairless facility that, when complete this fall, will increase the unforced summer peak capacity of the Fairless facility by 120 MW for a total interconnection of 1,195 MW. Dominion explains that the upgrades to the Fairless facility will come as result of using efficient "chiller" technology to increase the maximum output of the existing units. This technology, according to Dominion, uses off peak energy to make chilled water at night which is used to cool the intake air entering the turbine during the day to gain winter-like efficiency in warmer periods, including the summer peak period.

bid the full output of the Fairless facility in the 2011-2012 Reliability Pricing Model (RPM) base residual auction that commences May 2008.<sup>3</sup>

2. In support of the capacity uprates, Dominion submitted to PJM on January 26, 2007 an interconnection request to facilitate delivery of the additional capacity from the Fairless facility (PJM designated this as queue request R81). According to Dominion, the PJM tariff required that the Feasibility Study for the R81 upgrades at Fairless be completed by March 31, 2007, but the Feasibility Study was not completed until June 21, 2007. Dominion further asserts that, after receiving the Feasibility Study, it promptly submitted to PJM on July 3, 2007, a request for a System Impact Study relating to the R81 upgrades. Dominion maintains that the PJM tariff required that the System Impact Study be completed by November 11, 2007, but that the System Impact Study has not been completed. Further, Dominion states that PJM has informally communicated to Dominion that it does not expect to complete the study until sometime in the second quarter of 2008, but even that timeline has not been guaranteed. Accordingly, Dominion asks the Commission to issue an order directing PJM to complete the System Impact Study for the Fairless facility as soon as possible, but no later than April 28, 2008, in time to allow Dominion a reasonable basis to bid the full output of the Fairless facility including the R81 uprates in the May 2008 Base Residual Auction for the 2011- 2012 Delivery Year.

3. Dominion asserts that it has attempted unsuccessfully to resolve its dispute with PJM and asks the Commission to establish settlement judge procedures as soon as possible, similar to the Commission's action in *H-P Energy Resources, LLC v. PJM Interconnection, L.L.C.*<sup>4</sup> We agree that the involvement of a settlement judge may assist the parties in reaching a mutually agreeable resolution of this matter. We also find that the issues presented here may be amenable to settlement.

4. Because these determinations are critical for generators to participate in the RPM auctions, which are three years ahead of the delivery year, we think it is crucial for the parties to make every effort to settle their dispute before the base residual auction. To aid the parties in their settlement efforts, we direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.<sup>5</sup> The Chief

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<sup>3</sup> Dominion asserts that PJM's delay in processing Dominion's interconnection request already forced it to scale back its capacity offer into the base residual auction for the 2010-2011 delivery year.

<sup>4</sup> 120 FERC ¶ 61,203 (2007).

<sup>5</sup> 18 C.F.R. § 385.603 (2007).

Judge will select a judge for this purpose. The settlement judge shall report to the Chief Judge and the Commission on or before February 22, 2008, concerning the status of settlement discussions.

5. Notwithstanding the procedures established here, the Commission's comment date of February 11, 2008, as established in the official notice issued by the Secretary, remains the date by which responsive pleadings and motions should be filed by interested parties. We express no opinion on the merits of the complaint at this time.

The Commission orders:

(A) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2007), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within one (1) day of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge.

(B) On or before February 22, 2008, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.